

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRESH BREAD DELIVERY, LLC,
SANDRA BELL, and OSCAR TURNER,

Plaintiffs,

v.

GOLD MEDAL BAKERY ROUTE
DISTRIBUTION, LLC,

Defendant.

USDC-SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC#:
DATE FILED: 02/18/2022

No. 19-CV-514 (RA)

ORDER

RONNIE ABRAMS, United States District Judge:

Plaintiffs Fresh Bread Delivery, LLC, Sandra Bell, and Oscar Turner filed this action on January 17, 2019. On April 4, 2019, on the consent of the parties, the Court granted Defendant's motion to compel arbitration and stayed the case pending resolution of the arbitration. *See* Dkt. 10. On October 12, 2021, the Court requested a joint letter updating the Court on the status of the arbitration. *See* Dkt. 12. Counsel for both parties filed a status letter, explaining that Plaintiff Fresh Bread Delivery, LLC had initially filed a complaint with the American Arbitration Association ("AAA") on April 16, 2019. *See* Dkt. 26. There was an apparent deficiency in the complaint, which the AAA requested that Fresh Bread cure. Fresh Bread failed to cure the deficiency, and on May 28, 2019, the AAA administratively closed the case with the option for Fresh Bread to resubmit the matter. To date, the case has not been resubmitted to the AAA.

Plaintiffs' counsel has reported to the Court that he has been "unable to reach his clients despite repeated attempts." Dkt. 26. On January 31, 2022, the Court instructed Plaintiffs to file a letter with the Court updating it as to whether they intend to resubmit this case to arbitration. The Court informed Plaintiffs that if they failed to do so by February 14, 2022, the Court may dismiss

this action for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b). Plaintiffs did not file any response to the Court's January 31st Order. As of today's date, Plaintiffs have not responded to the Court's January 31st Order, nor have they otherwise indicated that they intend to pursue this action.

Rule 41(b) of the Federal Rules of Civil Procedure provides that a district court may dismiss an action if "the plaintiff fails to prosecute or otherwise comply with [the] rules or a court order." Fed. R. Civ. P. 41(b); *see also Baptiste v. Sommers*, 768 F.3d 212, 216 (2d Cir. 2014). Under Rule 41(b), a district court may dismiss an action *sua sponte* for failure to prosecute after notifying the plaintiff. *LeSane v. Hall's Sec. Analyst, Inc.*, 239 F.3d 206, 209 (2d Cir. 2001). Because the Court has not received any response from Plaintiffs, including any indication that they intend to pursue this case, and because their counsel has informed the Court that he has been "unable to reach his clients despite repeated attempts," the instant action is dismissed without prejudice pursuant to Federal Rule of Civil Procedure 41(b). The Clerk of Court is respectfully directed to close the case.

SO ORDERED.

Dated: February 18, 2022
New York, New York

A handwritten signature in blue ink, appearing to read 'Ronnie Abrams', written over a horizontal line.

Ronnie Abrams
United States District Judge